

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-KC-501
)	
Verizon Wireless)	NAL/Acct. No.200232560018
d.b.a. Des Moines MSA General Partnership)	
Owner of Antenna Structure #1001297 near Van)	FRN 0005-0054-91
Meter, Iowa)	
Alpharetta, Georgia)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 24, 2002

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Verizon Wireless d.b.a. Des Moines MSA General Partnership (“Verizon”), owner of antenna structure #1001297, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Commission's Rules (“Rules”).¹ Specifically, we find Verizon Wireless d.b.a. Des Moines MSA General Partnership apparently liable for failure to clean and repaint its antenna structure to maintain good visibility.

II. BACKGROUND

2. On June 25, 2002, the antenna structure bearing FCC antenna structure registration (“ASR”) number 1001297 and located near Van Meter, Iowa was inspected by an agent of the Commission’s Kansas City Field Office (“Kansas City Office”). At the time of inspection, black cabling on the outside of the structure covered the painted metal tower reducing visibility of the structure. The Commission’s ASR database showed this structure is owned and registered to Verizon.

3. On June 28, 2002, Verizon contact person, Carol King, stated during a telephone interview with an agent of the Kansas City Office that Verizon personnel were aware of the cabling on this tower and that they had contacted the Federal Aviation Administration (“FAA”) to request dual lighting on this structure, but that no such authorization had been obtained. Ms. King stated that Verizon would be filing a Notice to Airmen (“NOTAM”) with the FAA concerning the painting status of the structure.

III. DISCUSSION

4. Verizon’s antenna structure registration #1001297 specifies lighting and painting for this structure that includes requirements that the structure be painted with alternating aviation orange and

¹ 47 C.F.R. § 17.50.

white bands. Section 17.50 of the Rules requires antenna structure owners to clean or repaint the structure as necessary to maintain good visibility. On June 25, 2002, Verizon's antenna structure #1001297 had black cabling on the tower face obscuring the structure's paint and causing the structure to have an overall dark appearance on the lower half to two-thirds of the structure. As a result of this cabling, the structure was not clearly visible.

5. Verizon personnel stated that they had begun the process of obtaining FAA approval for a dual lighting system due to the cabling on this structure. This process had begun prior to the inspection. However, no approval had been obtained at the time of the inspection and the structure had no strobed lighting in operation at the time of inspection to increase its visibility to aircraft during daylight hours.

6. Based on the evidence before us, we find Verizon willfully² violated Section 17.50 of the Rules by failing to repaint the antenna structure in accordance with the painting specifications associated with its antenna structure #1001297.

7. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for failure to repaint this structure is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a forfeiture of \$10,000.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ Verizon Wireless d.b.a. Des Moines MSA General Partnership is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Rules by failing to clean and repaint its antenna structure to maintain good visibility.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Verizon Wireless d.b.a. Des Moines MSA General Partnership SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

cancellation of the proposed forfeiture.

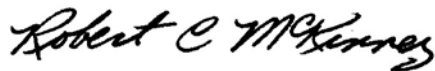
10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Verizon Wireless d.b.a. Des Moines MSA General Partnership, One Verizon Place, Mail Code 3B1REG, Alpharetta, Georgia 30004-8511.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Robert C. McKinney". The signature is written in a cursive, flowing style.

Robert C. McKinney
Kansas City Office, Enforcement Bureau

⁷ See 47 C.F.R. § 1.1914.